

1.0. **Authority, Purpose and Title**

1. Authority. In accordance with the authority granted to the city by Title 40, Chapter 40-47 of the North Dakota Century Code, the city has established and adopted this chapter to the city's code for the promotion of the health, safety, and general welfare of the city in accordance with the comprehensive plan.
2. Purpose. The purpose of this chapter is to:
  - a. Promote public health, safety and general welfare of the city;
  - b. Lessen congestion on the streets;
  - c. Prevent the overcrowding of land;
  - d. Provide for adequate emergency services for the safety of citizens;
  - e. Provide adequate light and air circulation;
  - f. Facilitate provisions for transportation, water, sewage, schools, parks, and other public requirements.
3. Title. This chapter shall be known as, referred to and cited as the Berthold Zoning Ordinance.

1.1. Zoning Map Boundaries

1. Establishment. The boundaries of the zoning districts established in this Code are shown on a map or series of maps designated the "Zoning Map," which is adopted as the official geographical depiction of zoning classifications adopted by the city.
2. Interpretation.
  - a. The city council shall appoint a Zoning Administrator, employee or other, that is responsible for the interpretation of the zoning map.
  - b. Boundaries of zoning districts shall follow centerlines of streets, highways, and/or alleys.
  - c. Where the actual location of existing physical or natural features varies from those shown on the zoning map the Zoning Administrator shall have the authority to interpret the district boundaries. Appeals to the Zoning Administrator shall be reviewed by the Berthold Planning Commission.

1.2. Comprehensive Plan

1. Purpose. To establish the connection between the City of Berthold Comprehensive Plan and the content of the Berthold Zoning Ordinance. This

connection establishes the basis for the reasonable harmonious development of the City of Berthold and its extraterritorial jurisdiction to promote the health, safety and general welfare of the city and its citizens.

2. Official Comprehensive Plan. The Berthold Zoning Ordinance shall be based on the most current comprehensive plan adopted by the city council. This zoning ordinance is based on the comprehensive plan adopted by the City Council on ??????????.
3. Comprehensive plan Amendments. Amendments to the Land Use Plan of the comprehensive plan shall be adopted by resolution and adopted by the Berthold City Council.

1.3. Extraterritorial Jurisdiction

The City of Berthold has enacted its lawful extraterritorial jurisdiction. Extraterritorial jurisdiction is a right granted to the city by Title 40, Chapter 40-47 of the North Dakota Century Code. This chapter allows a city to extend the application of its zoning regulations one-half mile beyond its corporate city limits. It also allows a city the right to engage in joint zoning and subdivision jurisdiction with the political subdivision with these rights from one-half mile to one mile outside the city's corporate limits.

1.4. Severability

If any part or portion of this chapter is deemed invalid in a court of law, the remainder of this chapter shall be considered valid and enforced as such.

1.5. Planning and Zoning Commission

1. Appointment. There is hereby created a zoning commission, as per NDCC Chapters 40-47-06 and 40-48-03, for the City of Berthold which shall consist of the following:
  - A. Two ex officio members, the mayor, city engineer, and city attorney.
  - B. A minimum of 4 persons living within the corporate city limits.
  - C. A minimum of 1 one member residing outside of city limits representing the city's extraterritorial jurisdiction.
  - D. A maximum of 7 members.
2. Terms of office. Members appointed by the city council shall serve initial terms assigned, as per NDCC Chapter 40-48-04. All subsequent terms for appointed members shall be five years in length. Terms for ex officio members of the commission shall correspond to their respective official tenure with the city. If a vacancy occurs, for any other reason than an expired term, it shall be

filled by appointment of the city council for the unexpired portion of the term.

3. Procedure. Immediately following their appointment, the members of the planning and zoning commission shall meet, organize, and elect officers. The commission shall keep records of its proceedings, which shall be open at all times to public inspection. The commission shall also submit recommendations to the city council on matters concerning planning and zoning.
4. Powers. The planning and zoning commission shall have all powers afforded and perform such duties provided for by state law and city ordinances.

1.6. Annexed Property

Property which has been annexed into the city that is zoned "Ag" may remain as such until which time it is proposed for development. All land annexed into the city must be platted and zoned to the appropriate zoning classification prior to change of use and/or the development of "Ag" properties.

1.7. Nonconforming Uses and Structures

It is the intent of this section to permit legal nonconforming lots, structures, or uses to continue until they are removed or are abandoned, but not to encourage their continuance. It is recognized that there exists within the zoning districts established prior to the adoption of this ordinance, uses, structures, and lots which would be prohibited or restricted under its present form. It is the intent of this section that nonconforming uses of land or structures shall not be enlarged, expanded, or extended to increase their nonconformity.

There may be a change in tenancy, ownership, or management or any existing nonconforming use of land and/or structure, providing the use is continuous and there is not a change of use type or expansion of nonconforming use.

Nonconforming structures that are damaged or destroyed may be reconstructed or repaired if the cost of repair is less than fifty (50) percent of the assessed value of the property. If repair costs are greater than fifty (50) percent, the structure must be rebuilt to comply with all applicable zoning regulations.

If a nonconforming use is discontinued for six (6) months, the use and/or structure shall not be allowed to commence and shall then be used in conformity with applicable zoning regulations.

Nonconforming structure shall be allowed to undergo repairs and maintenance to assure the safety of its inhabitants, but such repairs shall not increase the nonconformity for the structure, use, or land.

## 2.0. Definitions

1. Accessory dwelling unit – A dwelling unit located within an existing single-family detached unit that is separated from the primary dwelling unit that provides basic requirements for living, sleeping, eating, and sanitation. Either the principal dwelling unit or accessory dwelling unit must be occupied by an owner of the property. Accessory dwelling units may not be sold or separated from the primary dwelling.
2. Accessory use – A noncommercial use which is clearly incidental to and in connection with the principal use of the property.
3. Accessory structure – A detached structure located on the same lot as a primary structure and incidental to that main building.
4. Agricultural use – Any building or use, structures or buildings customarily used in the field of agriculture. Such agricultural uses shall include detached single-family dwellings and structures, such as barns, shops, grain bins, and other uses, which are customarily used in the operation of commercial agriculture.
5. Alley – A public or private way permanently reserved as a secondary means of access or a property.
6. Alley line – refers to the centerline of a twenty (20) foot alley.
7. Apartment building – A single building with three or more dwelling units with a shared entrance that are rented for periods greater than 30 days.
8. Assisted living facility – Dwelling units operated and rented by an individual or company for the purpose of providing meals and personal care (non-medical) to related or unrelated individuals.
9. Auto repair – commercial business which provides general repair and service for vehicles, not including auto body services.
10. Building – Any structure used for supporting or housing any use or occupancy.
11. Building line – The line to which building may begin at a prescribed distance from the legal lot lines.
12. Building frontage – The horizontal dimension of the side of any building that fronts a public or private roadway.

13. Building height – Means the vertical distance above grade to the highest point of a building's roof or parapet wall.
14. Common wall – A wall shared by two or more separate units of twin homes, townhouses and condominiums.
15. Conditional use – A use subject to restrictions or conditions on a building or use of a property that may be imposed by the City Council. Conditional uses run with the property and not with the owner of the property.
16. Conditional use permit- Means the legal authorization for a conditional use issued by the council that requires a determination that justifies the issuance of a permit and a statement of specific conditions that must be met by the applicant in order for the use to be permitted and/or continued.
17. Condominium – A building which each unit is held in private ownership and all yards and outdoor areas used in common are held in ownership and maintained by an association or corporation.
18. Council – Refers to the City Council of the City of Berthold.
19. Dwelling, single family –Means a complete, independent living, sleeping, eating, cooking, and sanitation facility for one family or no more than 4 unrelated individuals.
20. Dwelling, two family – a detached residential building containing two dwelling units sharing a common wall to be occupied by one family for each unit, or no more than 4 unrelated individuals.
21. Dwelling, multiple – a residential building with three or more individual units occupied by the same number of families as the total number units.
22. Enforcement officer – refers to an individual appointed by the council tasked with the ongoing enforcement of this zoning ordinance.
23. Family home daycare – A childcare facility in which care is provided to unrelated children for part of a day in the home of the provider.
24. Garage, private – an enclosed building that fronts on any street or alley used for the storage of any vehicle or other personal property for persons living on the same property. No public shop or commercial services may be operated in a private garage.
25. Group home – an establishment used to provide twenty-four hour care or supervision to individuals who, by reason or circumstances require daily care and/or supervision.

26. Home occupations – a business use conducted primarily within a single-family residential unit in which no person other than members of the immediate family is engaged and is secondary to the residential use of the property.
27. Lot – an individual piece of land with its own legal description, exacted from a larger tract of land by subdivision for purposes of sale and development.
28. Lot area – the total area (square feet) within the legal property lines of an individual property.
29. Lot coverage – the percent of the lot area covered by buildings or structures, excluding parking areas and driveways.
30. Lot lines- the boundaries or perimeter of a lot.
31. Lot line, front – the lot line separating the lot from the street right-of-way that will provide access to the lot. Corner lots may choose either frontage to be the front lot line
32. Lot depth – the average distance between the front and rear lot lines measured at both side lot lines.
33. Lot width – a straight line distance between the side lot lines measured at the front property line.
34. Manufactured home - A single-family residential structure able to be transported in one or more sections and is designed to be attached to a permanent foundation.
35. Nonconforming use – refers to the lawful use of a building or land on the effective date of this ordinance, which does not conform to the provisions of this chapter for the district in which it is located after the.
36. Primary structure – A building that is allowed by and complies with the purpose, permitted uses and/or conditional uses as defined in the zoning district in which the building is located.
37. Public – refers to any land, building, and use that is owned and/or operated by a governmental entity.
38. Setback – the distance required between the property line and a permitted structure to comply with the front, side, or rear yard provisions in each district.
39. Shed – small building that does not require a foundation used for storage of personal items and equipment. Must be used for non-commercial purposes and must be located on the same lot as a primary structure.

40. Townhouse – a single family dwelling unit constructed as part of a series of three or more single-family dwelling units sharing a common wall and a common lot line, and is located on an individually owned lot.
41. Variance – a variation of the strict application of this chapter in the case of irregular, narrow, shallow, or steep lot or other physical condition applying to a lot which is not typical of lots within the same zoning district.
42. Yard – the required unoccupied and unobstructed open space of a lot that is not covered by a primary or accessory structure.
43. Yard, front – the open space extending the full width of a lot between the front lot line and the nearest building line of a primary structure.
44. Yard, rear – the open space extending the full width of the lot between the rear lot line and the nearest building line of a primary structure.
45. Yard, side – open space between the primary structure and the side lot lines, extending from the front yard to the rear yard. The distance is measured from the nearest point of the side lot line to the nearest point of the outside wall or foundation of the primary structure.

3.0. **“Ag” Agricultural District**

3.1. Statement of Intent. It is the intent of this zoning district to establish areas for agricultural uses and allow for other uses that do not diminish the ability of the land to be used for agricultural purposes.

3.2. Permitted Uses.

1. Agricultural uses as defined by this ordinance, excluding feedlots and poultry facilities.
2. Buildings and structures used for operation of commercial farm.
3. Public facilities, parks, and game management and refuge areas.
4. Public utility and service structures.
5. Public gardens.

3.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the City Council as required in Section 16.0 of this ordinance.

1. Agricultural services such as custom planting and/or harvesting, custom baling, grain cleaning, and other similar uses not associated with the operation of a commercial farm.
2. Home occupations compliant with this ordinance.
3. Oil rigs, tanks, and/or other oil related structures a minimum of five hundred (500) feet from any residential structure.
3. Non-farm detached single family dwellings on established farmsteads.
4. Landscaping businesses and plant nurseries.
5. Animal breeding operations with fewer than 10 animals.
6. Animal kennels and shelters.

3.4. Yard Requirements for R-1 District.

	<b>Ag Use</b>	<b>Non-Ag Use</b>
Lot Area Minimum (ft <sup>2</sup> )	2.5 Acres	2.5 Acres
Lot Width Minimum (ft.)	200	200
Lot Depth Minimum (ft.)	200	200
Front Setback Minimum (ft.)	100 <sup>(1)</sup>	100 <sup>(1)</sup>
Rear Setback Minimum (ft.)	15	50
Side Setback Minimum (ft.)	15	25
Maximum Lot Coverage	<sup>(2)</sup>	10%
Maximum Building Height (ft.)	<sup>(3)</sup>	35

(1) Front yard setback shall be 100 feet from the centerline of roadway or 40 feet from the established right-of-way line as recorded with the county.

(2) For agricultural uses there will be no maximum lot coverage. For non-agricultural use maximum lot coverage shall be no greater than ten (10) percent.

(3) There shall be no maximum building height for agricultural uses.

4.0. **“R-R” Rural Residential District**

4.1. Statement of Intent. It is the intent of this zoning district to provide for areas on the edge or outside of city limits to be developed for residential purposes but allows for review by the city and other agencies to assure that goals and objectives of the comprehensive plan as well as health and building standards are met.

4.2. Permitted Uses.

1. Detached Single Family Dwellings.
2. Publicly owned and operated buildings, parks, playgrounds and recreational facilities.
3. Churches and places of worship.
5. Accessory buildings, garages, personal shops or sheds, up to 2,500 ft<sup>2</sup>.
6. Family home daycare with fewer than 12 children.
7. Group homes with six (6) or fewer developmentally disabled persons, as per NDCC Chapter 25-16-11.

4.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. Accessory buildings greater than 2,500 ft<sup>2</sup>.
2. Farm animals. There shall be two animals allowed for the first acre and one additional animal for every additional acre of land.

4.4. Yard Requirements for I District.

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	<b>One Family</b>	<b>Accessory Structure</b>
Lot Area Minimum (ft <sup>2</sup> )	43,560	
Lot Width Minimum (ft)	125	
Lot Depth Minimum (ft)	200	
Front Setback Minimum (ft)	40	40
Rear Setback Minimum (ft)	40	10
Side Setback Minimum (ft)	10	10
Maximum Lot Coverage	20%	
Maximum Building Height (ft)	35	20

5.0. **“R-1” Single Family Residential District**

5.1. Statement of Intent. It is the intent of this zoning district to provide for low density detached single family residential as well as public and semi-public uses and compatible accessory uses.

5.2. Permitted Uses.

1. Detached Single Family Dwellings.
2. Publicly owned and operated buildings, parks, playgrounds and recreational facilities.
3. Churches and places of worship.
4. Public or private schools and educational facilities.
5. Accessory buildings, garages, personal shops or sheds, less than 1000 ft<sup>2</sup>.
6. Family home daycare with fewer than 12 children.
7. Group homes with six (6) or fewer developmentally disabled persons, as per NDCC Chapter 25-16-11.

5.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the City Council as required in Section 16.0 of this ordinance.

1. Accessory dwelling units located within the primary structure.
2. Home occupations compliant with this ordinance.
3. Accessory buildings, detached garages, personal shops or sheds, greater than 1000 ft<sup>2</sup>.

5.4. Yard Requirements for R-1 District.

	<b>Residential</b>	<b>Accessory Use</b>	<b>Non-Residential</b>
Lot Area Minimum (ft <sup>2</sup> )	8,000		
Lot Width Minimum (ft.)	80		
Lot Depth Minimum (ft.)	100		
Front Setback Minimum (ft.)	25	25	25
Rear Setback Minimum (ft.)	25	5	25
Side Setback Minimum (ft.)	8 <sup>(1)</sup>	5 <sup>(1)</sup>	12
Maximum Lot Coverage	35%		35%
Maximum Building Height (ft.)	30	15	30

<sup>(1)</sup> Minimum Side Yard for structures on corner lots which abut a public right-of-way shall be a minimum of 10 feet. Minimum side yard for structures with driveway access from side yard shall be a minimum of 20 feet.

6.0. **“R-2” Medium Density Residential District**

6.1. Statement of Intent. It is the intent of this zoning district to provide for low and medium density residential dwellings as well as public and semi-public uses and compatible accessory uses.

6.2. Permitted Uses.

1. All permitted uses in the R-1 District.
2. Two-family dwellings, twin-homes, and town houses with no more than three attached units per structure.
3. Group homes with eight (8) or fewer developmentally disabled persons, as per NDCC Chapter 25-16-14.
4. Law enforcement and emergency service facilities.

6.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. Any Conditional Use permitted in the R-1 District.
2. Townhouses or condominiums with 3 or 4 attached units per structure, provided it is not adjacent to an R-1 zoned property.
3. Manufactured homes with a minimum 1,000 ft<sup>2</sup> of floor area.

6.4. Yard Requirements for R-2 District.

	<b>One-Family</b>	<b>Two-Family</b>	<b>3-4 Unit Structure</b>	<b>Non-Residential</b>	<b>Accessory Structure</b>
Lot Area Minimum (ft <sup>2</sup> )	6,000	7,000 <sup>(2)</sup>	3,500		
Lot Width Minimum (ft)	60	70	35		
Lot Depth Minimum (ft)	100	100	100		
Front Setback Minimum (ft)	25	25	25	25	25
Rear Setback Minimum (ft)	25	25	25	25	5
Side Setback Minimum (ft)	6 <sup>(1)</sup>	6 <sup>(1)</sup>	6 <sup>(1)</sup>	12	5
Maximum Lot Coverage	40%	40%	40%	35%	
Maximum Building Height (ft)	30	30	30	30	15

<sup>(1)</sup> Minimum Side Yard for structures on corner lots which abut a public right-of-way shall be a minimum of 10 feet. Minimum side yard for structures with driveway access from side yard shall be a minimum of 20 feet.

<sup>(2)</sup> If units are intended to be sold separately the lot area minimum shall be 3,500 ft<sup>2</sup> per lot.

7.0. **“R-3” Multiple Dwelling District**

7.1. Statement of Intent. It is the intent of this zoning district to provide for diverse mix of low and medium density residential dwellings as well as public and semi-public uses and compatible accessory uses.

7.2. Permitted Uses.

1. All permitted uses in the R-2 District.
2. Townhouse and condominium structures with up to 8 units.
3. Apartment building(s) with up to 8 units.

7.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. Any Conditional Use permitted in the R-2 District.
2. Assisted living facilities with 8 or fewer beds.

7.4. Yard Requirements for R-3 District.

	<b>One Family</b>	<b>Two Family</b>	<b>3+ Unit Townhome</b>	<b>Non-Residential</b>	<b>Accessory Structure</b>
Lot Area Minimum (ft <sup>2</sup> )	6,000	7,000 <sup>(2)</sup>	3,000		
Lot Width Minimum (ft)	60	70	24		
Lot Depth Minimum (ft)	100	100	100		
Front Setback Minimum (ft)	25	25	25	25	25
Rear Setback Minimum (ft)	25	25	25	25	5
Side Setback Minimum (ft)	6 <sup>(1)</sup>	6 <sup>(1)</sup>	6 <sup>(3)</sup>	12	5
Maximum Lot Coverage	40%	40%	40%	40%	
Maximum Building Height (ft)	30	30	30	30	15

<sup>(1)</sup> Minimum Side Yard for structures on corner lots which abut a public right-of-way shall be a minimum of 10 feet. Minimum side yard for structures with driveway access from side yard shall be a minimum of 20 feet.

<sup>(2)</sup> If units are intended to be sold separately the lot area minimum shall be 3,500 ft<sup>2</sup> per lot.

<sup>(3)</sup> For structures with 3 or more townhouse or condominium units the interior unit(s) shall have a zero setback requirement at the common wall, while end units shall have a required six (6) foot setback from the exterior wall. On corner lots the minimum side setback for end units shall be 10 feet.

8.0. **“MS-C” Main Street Commercial District**

8.1. Statement of Intent. It is the intent of this zoning district to create an environment that fulfills the goals and objectives of the Comprehensive Plan to concentrate retail and service commercial activity on Main Street to create a vibrant core of the community. This district shall extend along Main Street between 1<sup>st</sup> Avenue and 4<sup>th</sup> Ave.

8.2. Permitted Uses.

1. Retail and service businesses.
2. Professional offices.
3. Financial Services.
4. Personal services such as barbers, beauty shops, laundromats, etc.
5. Bars and drinking establishments.
6. Restaurants and coffee shops.
7. Entertainment and recreational businesses such as theaters, health clubs, bowling alleys, and like businesses.
8. Medical and dental offices and clinics.
9. Veterinary clinics without boarding facilities.
10. Grocery stores, bakeries, delis, and food preparation businesses.
11. Hotels and Motels.
12. Childcare centers.
13. Public and semi-public uses such as community centers, fire stations and like uses.
14. Other uses consistent with the stated intent of this ordinance.

8.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. Funeral Homes and Mortuaries
2. Convenience stores and gas stations.

3. Apartments within commercial establishments with off street parking.
  - a. Any apartment shall be provided with off street parking of one (1) space per bedroom.
  - b. Apartments shall be provided access separate from commercial use.

8.4. Development standards for C-1 District.

1. Building orientation and Entrances. For all properties located along Main Street the front façade of the building shall be oriented towards Main Street with the main entrance on this side. Corner properties may have a secondary entrance on the adjacent side street and may have the main entrance on the corner of the intersecting streets.

2. Building Location and Setbacks.

- a. Front Yard Setback. All buildings fronting Main Street shall incorporate a required zero (0) foot setback from established sidewalk.

- b. Side Yard Setback.

Interior Lots. There shall be no required side yard setback for properties which front on Main Street and do not have frontage on an adjacent side street but are encouraged to incorporate a zero (0) foot side yard setback to allow for a consistent downtown development pattern.

Exterior Lots. Buildings on exterior lots with side yard on an adjacent side street shall incorporate a minimum ten (10) foot setback from exterior side property line.

- c. Rear Yard Setback. For buildings that front on Main Street the required rear yard setback shall be a minimum of ten (10) feet. For commercial properties that have access and/or parking in the required rear yard shall have a minimum setback of twenty (20) feet as to not encumber the alley.

8.5. Parking Requirements.

1. All customer and employee parking for businesses located on Main Street shall be on-street parking along either side of Main Street between 2<sup>nd</sup> Avenue and 4<sup>th</sup> Avenue.
2. Businesses with company vehicles that remain on-site after business hours shall be required to be parked/stored either within the building or in the required rear yard of the property.

9.0. **"GC" General Commercial District**

9.1. Statement of Intent. It is the intent of this zoning district to create an environment that fulfills the goals and objectives of the Comprehensive Plan that allows for traditional commercial development patterns for businesses that require larger yards.

9.2. Permitted Uses.

1. All Permitted uses in the C-1 district
2. Convenience Stores and gas stations.

9.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. All conditional uses permitted in the C-1 district.
2. Multiple dwelling structures.
3. Auto repair and auto body shops.
4. New and used auto, equipment, and machinery sales.
5. Veterinary clinics with overnight boarding facilities.
6. Plumbing, heating and construction contractor offices/yards with screened outdoor storage.
7. Other similar type uses as approved by the City.

9.4. Yard Requirements for C-2 District.

1. There are no required yard or setback requirements for the C-2 district.

9.5. Access and Parking Requirements for C-2 District.

1. Access to C-2 properties must be from a public right-of-way and must be a minimum of twenty (20) feet in width.
2. There shall be one parking space for every 500 ft<sup>2</sup> of building area. If building owner can justify a reduction in required parking spaces do to proposed business hours, type of business, etc., the City Council may grant the reduction.
3. Parking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet deep.

4. Driving aisles between rows of parking must be a minimum of 24 feet in width.
5. Parking spaces must be set back a minimum of five (5) feet from any building and five (5) feet from any exterior property line.
6. Parking plans must be submitted with building permit application and approved by the city prior to issuance of permit.
7. Parking lots and driving isles must be improved with a durable surface such as gravel, asphalt, or concrete, and be developed to afford positive drainage.

10.0. **“HWY-C” Highway Commercial District**

10.1. Statement of Intent. It is the intent of this district to establish areas along US Highway 2 to accommodate commercial uses which by nature and operation require direct access, large number of parking spaces, and separation from other uses because of the intensity and frequency of consumer traffic.

10.2. Permitted Uses.

1. All Permitted uses in the GC district;
2. Animal hospitals and kennels with boarding facilities and/or outdoor runs not less than 250 feet from residential district;
3. Convenience stores with automotive repair;
4. Department stores;
5. Feed and seed sales;
6. Lumberyard and building material sales;
7. Highway maintenance shops;
8. Hospitals and clinics;
9. Machinery and equipment sales and service;
10. Recreational vehicle sales and service;
11. National/regional box stores;
12. Other similar type uses as approved by the City.

10.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

13. All conditional uses permitted in the GC district.
14. Plumbing, heating and construction contractor offices/yards with screened outdoor storage.
15. Machine shops and fabrication of metal products;
16. Storage garages and warehouses.

10.4. Yard Requirements for HWY-C District.

1. The minimum lot area for HWY-C district shall be twenty thousand square feet.
2. The minimum frontage on US Highway 2 shall be one hundred feet.
3. The minimum front building line, measured from the front lot line, shall be fifty feet for all projects fronting US Highway 2.
4. The minimum rear building line, measured from the rear lot line, shall be twenty feet.
5. The minimum side building line shall be 20 feet.
6. The minimum front building line for stored items and storage buildings with outdoor storage areas shall be 250 feet from US Highway 2 right-of-way.

10.5. Landscape requirement.

1. A minimum of ten percent of total lot area is recommended for landscaping, and a minimum of five percent must be planted with a minimum five-gallon tree and/or shrubs.
2. If adjacent to residential zoned property and minimum of two rows of trees must be planted as a buffer along length of the abutting property line.

10.6. Access and Parking Requirements for C-2 District.

1. Access to HWY-C properties must be from US Highway 2 or a frontage road with direct access US Highway 2 and must be a minimum of thirty (30) feet in width.
2. There shall be one parking space for every 500 ft<sup>2</sup> of building area. If building owner can justify a reduction in required parking spaces do to proposed business hours, type of business, etc., the City Council may grant the reduction.
3. Parking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet deep.
4. Driving aisles between rows of parking must be a minimum of 24 feet in width.
5. Parking spaces must be set back a minimum of five (5) feet from any building and five (5) feet from any exterior property line.
6. Parking plans must be submitted with building permit application and approved by the city prior to issuance of permit.
7. Parking lots and driving isles must be improved with a durable surface such as gravel, asphalt, or concrete, and be developed to afford positive drainage.

11.0. **“HC” Heavy Commercial District**

11.1. Statement of Intent. It is the intent of this zoning district to create an environment that fulfills the goals and objectives of the Comprehensive Plan that allows for uses that are involved in activities that may require additional lot area and/or buffering to operate with minimal effect on neighboring properties.

11.2. Permitted Uses.

1. All Permitted uses in C-1 and C-2 districts.
2. Contractor shops with screened outdoor storage.
3. Veterinary clinics with overnight facilities.

11.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. All conditional uses permitted in the C-1 and C-2 district.
2. Multiple dwelling structures.
3. Agricultural services such as grain elevators and seed and chemical sales and distribution.
4. Trucking facilities.
5. Mini-storage buildings.
6. Other similar type uses as approved by the City.

11.4. Yard Requirements for HC District.

1. There are no required yard or setback requirements for the HC district.

11.5. Access and Parking Requirements for HC District.

1. Access to HC properties must be from a public right-of-way and must be a minimum of twenty (20) feet in width.
2. Parking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet deep.
3. Driving aisles between rows of parking must be a minimum of 24 feet in width.

4. Parking spaces must be set back a minimum of five (5) feet from any building and five (5) feet from any exterior property line.
5. Parking plans must be submitted with building permit application and approved by the city prior to issuance of permit.
6. Parking lots and driving isles must be improved with a durable surface such as gravel, asphalt, or concrete, and be developed to afford positive drainage.

12.0. **“I” Industrial District**

12.1. Statement of Intent. It is the intent of this zoning district to create an environment that fulfills the goals and objectives of the Comprehensive Plan that allows for businesses of a more intense use that by their nature are served best by locating separate from other uses.

12.2. Permitted Uses.

1. All permitted uses in C-1, C-2, and HC districts.
2. Agricultural services such as grain elevators and seed and chemical sales and distribution.
3. Manufacturing and/or assembly facilities.
4. Plumbing, heating and construction contractor offices.
5. Gas Stations and truck stops.
4. Mechanic shops.
5. Wholesale distribution facilities.
6. Trucking facilities.
7. Animal Kennels and shelters.
8. Storage buildings and warehouses.

12.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. Outdoor storage facilities.
2. Oil and/or gas storage, extraction or processing related uses.

12.4. Yard Requirements for I District.

1. There are no required yard or building setback requirements for the C-2 district.

12.5 Access and Parking Requirements for I District.

1. Access to industrial properties must be from a public right-of-way and must be a minimum of twelve (20) feet in width.
2. There shall be one parking space for every owner and employee on the

largest shift, plus one space for every 500 ft<sup>2</sup> of customer service or sales area. If building owner can justify a reduction in required parking spaces do to proposed business hours, type of business, etc., the City Council may grant the reduction.

3. Parking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet deep.
4. Driving aisles between rows of parking must be a minimum of 24 feet in width.
5. Parking spaces must be set back a minimum of five (5) feet from any building and five (5) feet from any exterior property line.
6. Parking plans must be submitted with building permit application and approved by the city prior to issuance of permit.
7. Parking lots and driving isles must be improved with a durable surface such as gravel, asphalt, or concrete, and be developed to afford positive drainage.

13.0. **“P” Public Facilities District**

13.1. Statement of Intent. It is the intent of this zoning district to provide for areas within the city for buildings and uses owned by the city, park district and school to serve the public good.

13.2. Permitted Uses.

1. Publicly owned buildings.
2. Public parks and facilities.
3. Required infrastructure facilities.
4. Uses incidental to public uses, such as park shelters, concession stands, outhouses, etc.
5. Golf courses.

13.3. Conditionally Permitted Uses. These uses may be permitted in this district upon further review of the Planning Commission and City Council as required in Section 16.0 of this ordinance.

1. Campgrounds with sanitary services for camper trailers.

13.4. Yard Requirements for “P” District.

1. There is no required yard or building setback requirement for the P district.

14.0. **“PUD” Planned Unit Development District**

14.1. Statement of Intent. It is the intent of this zoning district to encourage and promote greater freedom and flexibility in the development of land while complying with the purpose and intent of the zoning regulations and comprehensive plan.

14.2. Permitted Uses.

1. All permitted uses within the residential, commercial or industrial districts shall be considered as potentially allowable within a PUD District.

14.3. Regulations.

2. The tract of land for which a planned unit development project is proposed shall be a minimum of two (2) acres.
3. Application for a PUD designation shall be made by the owner of the property except for than an option holder may apply for the PUD designation provided his application is accompanied by a signed statement of approval from the owner(s) of all property involved.
4. The proposed land uses must be compatible with adjacent land uses and in compliance with the uses shown for the property in the comprehensive plan.
5. Variance from traditional zoning requirements are to be granted when they are consistent with the purpose of this section and comprehensive plan, provide greater functionality and higher amenity to the neighborhood, and are in the best interest of the entire community.
6. Private roadways shall be permitted within the project provided they are approved by the city engineer.
7. The owner or developer is to comply with all the requirements of the city regarding lighting, access, storm water, etc.

14.4. Development Plan.

8. A PUD Development Plan must be submitted to the city and shall include:
  - a. Location of existing property lines, drives, easements, etc.;
  - b. General layout of proposed streets and location of proposed uses;
  - c. Location of open spaces and facilities for public use;
  - d. Drainage plan showing positive drainage not affecting neighboring properties;
  - e. The city planning commission may require additional information.

14.5. Data submission requirements.

9. A scaled map showing:
  - a. Location of existing property lines, drives, easements, etc.;
  - b. Location of existing structures and proposed structures;
  - c. Proposed setbacks for proposed structures;
  - d. Street and/or private drive location, widths, and connection to existing public street network;
  - e. Location of existing and proposed utility easement(s);
  - f. Grading and storm water drainage plan.
10. Agreements between city and developer to insure timely and satisfactory completion of the project without posing a burden on the city or adjoining properties.

14.6. Review and approval procedure.

11. The city planning commission shall review the proposed plan and may require additional information and may require modification of the plan prior to making a recommendation to the city council.
12. The city council shall hold a public hearing to review the development plan. A developer's agreement spelling out responsibility of the city and developer along with detailed development timeline must be approved subsequently.
13. Upon approval of the city council, the detailed development plan shall be recorded with the Ward County Register of deeds and the original be kept on file in the office of the City Auditor.

15.0. **Supplemental Residential District Regulations**

1. Accessory buildings

- a. Accessory building shall only be allowed on lots with a primary structure.
- b. Accessory buildings shall only be allowed in the rear yard and must comply with all side yard setbacks.
- c. Accessory buildings on corner lots with vehicular access to a public street shall maintain a minimum 20-foot setback from side of access.
- d. Accessory buildings shall not be more than one story and 15 feet in height at the highest point.
- e. If an accessory building has vehicular access from an alley the minimum setback shall be 10 feet with no parking allowed within the setback.
- f. Accessory buildings may not be used for commercial purposes.
- g. Accessory buildings may not be located within a dedicated easement.

2. Fences

- a. Along the front property line may not exceed three (3) feet in height and must be open fence with a maximum of fifty (50) percent solid materials, wood or metal.
- b. Along side and rear property lines fences may be open or solid and shall not exceed six (6) feet in height.
- c. Fences shall be constructed of wood, metal, fiberglass, pvc, masonry materials, or other durable materials approved by the city.
- d. A building permit shall be required prior to construction of any fence.

3. Parking

Residential Parking

- a. Properties located within the R-1, R-2 and R-3 districts shall provide for a minimum of two off street parking spaces. Spaces may be within the front or side yard and may be open or enclosed within the primary structure.
- b. All parking areas on residential properties must be improved.
- c. All vehicles parked in a residential district must have a current license and must be operable in its current condition.

- d. No vehicle with a cargo rating of one (1) ton or greater may not be parked in a residential district.
  - e. No trailers may be dollied down on a residential street.
  - f. Recreational vehicles such as campers and motor homes may be parked on a residential street, but at no time may be used for living, sleeping or housekeeping purposes.
  - g. Properties with apartment buildings must provide a minimum of one (1) parking space per bedroom for all structures.
4. Home Occupations. Home occupations, as defined by this Ordinance, shall be subject to the following standards:
- a. Such uses must be conducted entirely within a primary dwelling and carried out by the persons living on the property and no others.
  - b. Such uses shall be clearly incidental to the dwelling and the appearance of the structure shall not be altered to cause it to differ from its residential character.
  - c. No more than twenty five (25) percent of the total floor area may be used for home occupation.
  - d. No storage of goods or display shall be visible outside the structure.
  - e. Signs advertising such uses shall be no greater than two (2) square feet and must be attached to the house no higher than four (4) feet off the ground.

16.0. **Conditional Use Permit and Process**

16.1. Definition. Conditional uses are those types of uses which, due to their nature, are determined to be more intense than normal uses permitted within a zoning district, and may prove to be detrimental to the health, safety, welfare and property value of the immediate neighborhood and its environment. Within this ordinance, conditional uses are specifically listed in the district regulations, may be permitted only after additional requirements are complied with as established in this section.

16.2. Conditional Use Permit. The city council shall approve the establishment of a conditional use by granting a conditional use permit. No conditional use permit shall be issued until a public hearing has been held at the planning and zoning commission. All requests for a conditional use permit shall be reviewed by the planning commission and zoning commission. The planning commission shall forward a recommendation of approval or denial with conditions or without to the city council to be acted upon as soon as practical. Such action shall be taken at a properly advertised meeting of the city council as required by state statute and shall be an agenda item.

16.3. Application Requirements for a Conditional Use. An application for a conditional use permit shall be in writing and signed by the owner of the lot, tract of land, building or structure for which the permit is being requested. The application, which shall consist of forms and information required by the city shall be filed with the city auditor with the appropriate filing fee. At a minimum the application form shall include the following:

1. Name, address, telephone number and email address of applicant.
2. Legal description of the property under consideration.
3. Total acreage of the parcel.
4. Existing land use of parcel.
5. Proposed conditional use with detailed description of how use will be enacted within parcel or structure.
6. Existing zoning of the parcel.
7. Notification of property owners within one hundred fifty (150) feet.
8. Signature of parcel owner or authorized legal agent.

16.4. Planning and Zoning Commission Consideration. Upon receipt of a completed conditional use permit application, the planning and zoning commission shall consider the request at its next monthly meeting. The commission shall arrive at a recommendation within ninety (90) days of receipt of a completed application. The commission shall then forward to the city council for review a recommendation to approve or deny the

application. If approved with conditions the planning and zoning commission must forward a detailed description of each condition.

16.5. City Council Action. Upon receipt of the planning and zoning commission recommendation the city council shall review the facts gathered from the public hearing and make a decision within sixty (60) days. Approved applications with conditions imposed by the city council shall be attached to the property and failure to comply with any condition shall be considered a violation. Any violation shall be reviewed by the city council to determine if the conditional use permit shall be allowed to continue, amended to include additional conditions, or should be ceased. The same review process as the original approval shall be followed when evaluating a violation.

16.6. Conditional Use Permit Conveyance. Conditional use permits are attached to the parcel of land for which the permit was approved. The conditions as approved by the city council are transferred as such with any sale of the property.

17.0. **Board of Adjustment**

17.1. Establishment. A board of adjustment is hereby established, which consists of five members appointed by the city council, each for a term of three years.

17.2. Purpose. The board of adjustment shall hear and decide appeals in which an alleged error in any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any ordinance adopted by the city. The board of adjustment shall operate separately from other city boards and shall require a vote of four members to reverse any order, requirement, decision, or determination made by an administrative official of the city.

17.3. Variance Request. A variance from the letter of this ordinance, shall not be granted by the Board of Adjustment unless:

1. An application is submitted proving:
  - a. Special conditions exist for the land, structure, or building(s) involved that do not exist for other land, structures, or buildings in the same zoning district.
  - b. The literal interpretation of the provisions of this ordinance would deprive the owner of the land, structure, or building of rights enjoyed by others within the same zoning district.
  - c. That any special conditions do not result from the actions of the owner.
  - d. Granting a variance will not convey on the applicant any privileges denied by this ordinance to other land in the same zoning district.
2. The owner of the property seeking a variance, the owners of the neighboring properties and all properties within one hundred fifty (150) feet must be notified a minimum of 10 days prior to the hearing at the Board of Adjustment.
3. Upon receipt of an application for a variance the planning and zoning commission shall hold a public hearing. The hearing date and time must be published in the city's official newspaper once a week for two successive weeks. The findings and recommendations of the planning and zoning commission shall then be forwarded to the Board of Adjustment for their review and action.